

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x
UNITED STATES OF AMERICA

:
- against -

MARK BRENER,

:
Defendant.

- - - - - x

CHIN, District Judge

By letter dated January 22, 2009, defense counsel submitted a sentencing memorandum of the same date and requested that the memorandum be filed under seal because it contains "highly sensitive information" regarding defendant's personal life and medical history. The Court has filed the sentencing memorandum under seal for now.

The Court has received a telephone inquiry from a member of the media requesting access to defendant's sentencing memorandum, which was cited in the government's publicly filed sentencing memorandum. In determining whether to release defendant's sentencing memorandum publicly, the Court has considered the factors discussed by Judge Koetl in United States v. Sattar, 471 F. Supp. 2d 380, 384-87 (S.D.N.Y. 2006). The sentencing memorandum is a judicial document, to which there is a presumption of access. This presumption is to be given great weight, as the document is intended to influence the Court in its

The sentencing memorandum is in the form of a letter but is referred to as a sentencing memorandum. I refer to it here as a memorandum.

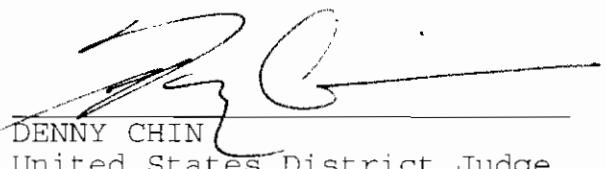
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sentencing decision. On the other hand, the sentencing memorandum discusses a number of matters that are "traditionally considered private rather than public." Id. at 387; see also United States v. Amodeo, 71 F.3d 1044, 1050-51 (2d Cir. 1995).

The Court proposes to issue a redacted version of the sentencing memorandum. Copies of the redacted version will be transmitted to both defense counsel and the government. If defendant wants any additional portions redacted, he must make his request in writing by 10 a.m. tomorrow, February 5, 2009. A redacted version will be released thereafter. This order is being filed publicly, but the redacted memorandum will not be filed pending tomorrow's deadline.

SO ORDERED.

Dated: New York, New York
February 4, 2009


DENNY CHIN
United States District Judge